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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,374	12/03/2003	Marian Rudolf	I-2-0444.IUS	7140
24374 7590 07/28/2008 VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103				
EXAMINER				
DAO, MINH D				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
07/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/726,374

**Applicant(s)**

RUDOLF ET AL.

**Examiner**

MINH D. DAO

**Art Unit**

2618

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 is/are allowed.
- 6) ☒ Claim(s) 37, 38, 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 12/18/07, 06/21/07

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group II (claims 37-40) in the reply filed on 04/14/08 is acknowledged.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 37,38, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svedevall et al. (US 2003/0207687) in view of Hakkinen et al. (US 7,116,651).

Regarding claim 37, Svedevall teaches a method for determining a channel quality in a wireless communication system (see abstract and background of Fischer), comprising: receiving a transmission; counting a total number of transmissions; counting a number of failed transmissions; counting a number of missed transmissions; and reporting the total number of transmissions, the number of failed transmissions, and the number of missed transmissions, whereby the reporting is an indication of the channel quality (see paras [0003-0018, 0038, ]; figs. 1-5). However, Svedevall does not mention a periodic report of (HS-SICH) transmission over a fixed time period. This limitation is taught by Hakkinen in an analogous art (see abstract; col. 5, line 15 to col. 10, line 58; figs. 1-5). It would have been obvious to one of ordinary skill in the art at the time of the invention

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was made to provide the "periodical reporting of performance of the HS-SICH transmission system over a fixed time period" teaching of Hakkinen to Svedevall in order for the combined system therefore to conserve resources.

Regarding claim 38, the claim includes the limitations as that of claim 37 and therefore claim 38 is interpreted and rejected for the same reasons set forth in the rejection of claim 37.

Regarding claim 40, the rejection of claim 37 is herein incorporated. In addition, Svedevall also teaches adjusting uplink transmit power based on performance of a receiver (see paras [0037,0038] of Svedevall).

***Allowable Subject Matter***

4. Claim 39 is allowed.
5. The following is an examiner's statement of reasons for allowance:

Regarding claim 39, Svedevall and Hakkinen, as mentioned above teach the limitations of claims 37,38 and 40, but fail to disclose a base station configured to determine a channel quality, comprising: a receiver configured to receive a high speed shared control channel (HS-SICH) transmission; a first counter configured to count a total number of HS-SICH transmissions; a second counter configured to count a number of failed HS-SICH transmissions; a third counter configured to count a number of missed HS-SICH transmissions; and a reporting device configured to periodically report the

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values of said first counter, said second counter, and said third counter over a fixed time period, whereby the report is an indication of the channel quality as specified in the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is (571)272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW ANDERSON can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MINH DAO  
/MINH D DAO/  
Examiner, Art Unit 2618